

109TH CONGRESS  
1ST SESSION

# H. R. 4320

To restore the financial solvency of the national flood insurance program,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 15, 2005

Mr. OXLEY (for himself and Mr. FRANK of Massachusetts) introduced the  
following bill; which was referred to the Committee on Financial Services

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## A BILL

To restore the financial solvency of the national flood  
insurance program, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “National Flood Insur-  
5       ance Program Commitment to Policyholders and Reform  
6       Act of 2005”.

7       **SEC. 2. FINDINGS AND PURPOSES.**

8       (a) FINDINGS.—The Congress finds that—

9               (1) the amount of the flood insurance claims re-  
10       sulting from Hurricane Katrina and Hurricane Rita

1 will likely exceed the aggregate amount of all claims  
2 previously paid in the history of the national flood  
3 insurance program, and will require an increase in  
4 the program's borrowing authority;

5 (2) flood insurance policyholders have a legiti-  
6 mate expectation that they will receive fair and time-  
7 ly compensation for losses covered under their poli-  
8 cies;

9 (3) substantial flooding has occurred, and will  
10 likely occur again, outside of the areas designated as  
11 the 100-year floodplain;

12 (4) to adequately and correctly assess potential  
13 flood damage and losses in all areas on the United  
14 States, the national flood insurance program will  
15 need to update its flood maps with the latest tech-  
16 nology;

17 (5) the maximum coverage limits for flood in-  
18 surance policies should be increased to reflect infla-  
19 tion and the increased cost of housing;

20 (6) significant reforms to the national flood in-  
21 surance program required in the Bunning-Bereuter-  
22 Blumenauer Flood Insurance Reform Act of 2004  
23 have yet to be implemented; and

24 (7) despite reforms required in the Bunning-  
25 Bereuter-Blumenauer Flood Insurance Reform Act

1 of 2004, the national flood insurance program re-  
2 quires a modernized and updated administrative  
3 model to ensure that the people of the United States  
4 have continued access to flood insurance.

5 (b) PURPOSES.—The purposes of this Act are—

6 (1) to protect the integrity of the national flood  
7 insurance program by fully funding existing legal ob-  
8 ligations expected by existing policyholders who have  
9 paid policy premiums in return for flood insurance  
10 coverage;

11 (2) to increase incentives for homeowners and  
12 communities to participate in the national flood in-  
13 surance program and to improve oversight to ensure  
14 full participation in the program for owners of prop-  
15 erties for which such participation is mandatory;

16 (3) to increase awareness of homeowners of  
17 flood risks and improve the quality of information  
18 regarding such risks provided to homeowners; and

19 (4) to better mitigate future flood damage risks  
20 through a combination of enhanced protective meas-  
21 ures, property elevation, and buyouts of flood-prone  
22 properties.

1 **SEC. 3. MANDATORY PURCHASE REQUIREMENT FOR 500-**  
2 **YEAR FLOOD PLAIN.**

3 (a) FLOOD DISASTER PROTECTION ACT OF 1973.—

4 Section 3(a) of the Flood Disaster Protection Act of 1973  
5 (42 U.S.C. 4003(a)) is amended—

6 (1) in paragraph (10), by striking “and” at the  
7 end;

8 (2) in paragraph (11), by striking the period at  
9 the end and inserting a semicolon; and

10 (3) by adding at the end the following new  
11 paragraph:

12 “(12) ‘area having special flood hazards’ or  
13 ‘flood hazard area’ means any area that is deter-  
14 mined by the Director—

15 “(A) pursuant section 1360 of the Na-  
16 tional Flood Insurance Act of 1968, to be sub-  
17 ject to inundation by the flood that has a 0.2  
18 percent chance of being equaled or exceeded in  
19 any year; or

20 “(B) to be an area that would be an area  
21 described in subparagraph (A) of this para-  
22 graph, but for the existence of a structural  
23 flood protection system;”.

24 (b) NATIONAL FLOOD INSURANCE ACT OF 1968.—

25 The National Flood Insurance Act of 1968 is amended—

26 (1) in section 1370(a) (42 U.S.C. 4121(a))—

1 (A) in paragraph (14), by striking “and”  
2 at the end;

3 (B) in paragraph (15), by striking the pe-  
4 riod at the end and inserting a semicolon; and

5 (C) by adding at the end the following new  
6 paragraph:

7 “(16) the term ‘area having special flood haz-  
8 ards’ and ‘flood hazard area’ mean an area that is  
9 determined by the Director—

10 “(A) pursuant section 1360, to be subject  
11 to inundation by the flood that has a 0.2 per-  
12 cent chance of being equaled or exceeded in any  
13 year; or

14 “(B) to be an area that would be an area  
15 described in subparagraph (A) of this para-  
16 graph, but for the existence of a structural  
17 flood protection system;”;

18 (2) in section 1361A(g)(4) (42 U.S.C.  
19 4102a(g)(4)), by striking “flood hazard area” and  
20 inserting “area having special flood hazards”; and

21 (3) in section 1366(m) (42 U.S.C. 4104c(m)),  
22 by striking “100-year” and inserting “500-year”.

23 (c) ANNUAL FLOOD MAP MODERNIZATION REPORTS  
24 AND CERTIFICATION OF COMPLETION.—

1           (1) IN GENERAL.—During the period that ends  
2           upon the completion by the Director of the Federal  
3           Emergency Management Agency of the updating  
4           and modernization of all floodplain areas and flood-  
5           risk zones, the Director shall submit a report annu-  
6           ally to the Congress describing the extent to which  
7           such updating and modernization has been com-  
8           pleted. Upon the completion of such updating, the  
9           Director shall submit to the Congress, and cause to  
10          be published in the Federal Register, a report certi-  
11          fying such completion.

12          (2) TIMING.— The first report under this sub-  
13          section shall be submitted not later than June 30,  
14          2006, and successive reports required under this  
15          subsection during the period referred to in para-  
16          graph (1) shall be submitted not later than June 30  
17          of each year during such period.

18          (d) APPLICABILITY.—The amendments made by sub-  
19          sections (a) and (b) shall take effect, and apply beginning  
20          on—

21                 (1) January 1, 2009, or

22                 (2) publication of the certification by the Direc-  
23          tor pursuant to subsection (c),  
24          whichever occurs first.

1 **SEC. 4. ENFORCEMENT.**

2 Paragraph (5) of section 102(f) of the Flood Disaster  
3 Protection Act of 1973 (42 U.S.C. 4012a) is amended—

4 (1) by striking “\$350” and inserting “\$2,000”;

5 and

6 (2) by striking the last sentence.

7 **SEC. 5. REITERATION OF FEMA RESPONSIBILITIES UNDER**  
8 **2004 REFORM ACT.**

9 (a) APPEALS PROCESS.—As directed in section 205  
10 of the Bunning-Bereuter-Blumenauer Flood Insurance  
11 Reform Act of 2004 (42 U.S.C. 4011 note), the Director  
12 of the Federal Emergency Management Agency is again  
13 directed to, not later than 90 days after the date of the  
14 enactment of this Act, establish an appeals process  
15 through which holders of a flood insurance policy may ap-  
16 peal the decisions, with respect to claims, proofs of loss,  
17 and loss estimates relating to such flood insurance policy  
18 as required by such section.

19 (b) MINIMUM TRAINING AND EDUCATION REQUIRE-  
20 MENTS.—The Director of the Federal Emergency Man-  
21 agement Agency is directed to enforce the minimum train-  
22 ing and education requirements for all insurance agents  
23 who sell flood insurance policies that have been established  
24 under the notice published September 1, 2005 (70 Fed.  
25 Reg. 52117) pursuant to section 207 of the Bunning-Be-

1 reuter-Blumenauer Flood Insurance Reform Act of 2004  
2 (42 U.S.C. 4011 note).

3 (c) MITIGATION PROGRAMS.—Not later than the ex-  
4 piration of the 30-day period beginning on the date of the  
5 enactment of this Act, the Director of the Federal Emer-  
6 gency Management Agency shall issue regulations nec-  
7 essary to implement the amendments made by sections  
8 102, 103, 104, and 105 of the Bunning-Bereuter-  
9 Blumenauer Flood Insurance Reform Act of 2004 (118  
10 Stat. 714 et seq.).

11 (d) REPORT.—Not later than the expiration of the  
12 6-month period beginning on the date of the enactment  
13 of this Act, the Director of the Federal Emergency Man-  
14 agement Agency shall submit a report to the Congress de-  
15 scribing the implementation of each provision of the  
16 Bunning-Bereuter-Blumenauer Flood Insurance Reform  
17 Act of 2004 (Public Law 108–264) and identifying each  
18 regulation, order, notice, and other material issued by the  
19 Director in implementing each such provision.

20 **SEC. 6. MAXIMUM COVERAGE LIMITS.**

21 Subsection (b) of section 1306 of the National Flood  
22 Insurance Act of 1968 (42 U.S.C. 4013(b)) is amended—

23 (1) in paragraph (2), by striking “\$250,000”  
24 and inserting “\$335,500”;



1           (2) in paragraph (3), by striking “\$100,000”  
2           and inserting “\$135,000”; and

3           (3) in paragraph (4), by striking “\$500,000”  
4           each place such term appears and inserting  
5           “\$670,700”.

6 **SEC. 7. COVERAGE FOR ADDITIONAL LIVING EXPENSES**  
7 **AND BUSINESS INTERRUPTION.**

8           Subsection (b) of section 1306 of the National Flood  
9 Insurance Act of 1968 (42 U.S.C. 4013), as amended by  
10 section 5 of this Act, is further amended—

11           (1) in paragraph (4), by striking “and” at the  
12           end;

13           (2) in paragraph (5), by striking the period at  
14           the end and inserting a semicolon; and

15           (3) by adding at the end the following new  
16           paragraph:

17           “(6) in the case of any residential property,  
18           each renewal or new contract for flood insurance  
19           coverage shall provide not less than \$1,000 aggre-  
20           gate liability per dwelling unit for any necessary in-  
21           creases in living expenses incurred by the insured  
22           when losses from a flood make the residence unfit to  
23           live in, which coverage shall be available only at  
24           chargeable rates that are not less than the estimated

1 premium rates for such coverage determined in ac-  
2 cordance with section 1307(a)(1);

3 “(7) in the case of any residential property,  
4 coverage for additional living expenses described in  
5 paragraph (6) shall be made available to every in-  
6 sured upon renewal and every applicant in excess of  
7 the limits provided in paragraph (6) in such  
8 amounts and at such rates as the Director shall es-  
9 tablish, except that such chargeable rates shall not  
10 be less than the estimated premium rates for such  
11 coverage determined in accordance with section  
12 1307(a)(1); and

13 “(8) the Director shall make available, for pur-  
14 chase by any policyholder of a policy for flood insur-  
15 ance coverage for a commercial property, optional  
16 coverage for losses resulting from any partial or  
17 total interruption of the policyholder’s business  
18 caused by damage to or loss of such property from  
19 a flood, except that—

20 “(A) for purposes of such coverage, losses  
21 shall be determined based on the profits the  
22 covered business would have earned, based on  
23 previous financial records, had the flood not oc-  
24 curred; and

1           “(B) such coverage shall be made available  
2           only at chargeable rates that are not less than  
3           the estimated premium rates for such coverage  
4           determined in accordance with section  
5           1307(a)(1).”.

6 **SEC. 8. INCREASE IN BORROWING AUTHORITY.**

7           (a) BORROWING AUTHORITY.—The first sentence of  
8           subsection (a) of section 1309 of the National Flood In-  
9           surance Act of 1968 (42 U.S.C. 4016(a)), as amended by  
10          the National Flood Insurance Program Enhanced Bor-  
11          rowing Authority Act of 2005 (Public Law 109–65; 119  
12          Stat. 1998), is amended by striking “\$3,500,000,000”  
13          and inserting “\$22,000,000,000”.

14          (b) FEMA REPORT.—Not later than the expiration  
15          of the 6-month period beginning on the date of the enact-  
16          ment of this Act, the Director of the Federal Emergency  
17          Management Agency shall submit a report to the Congress  
18          setting forth a plan for repaying any amounts borrowed  
19          pursuant to increase in borrowing authority authorized  
20          under the amendments made by subsection (a).

21 **SEC. 9. CLARIFICATION OF REPLACEMENT COST PROVI-**  
22 **SIONS, FORMS, AND POLICY LANGUAGE.**

23          Not later than the expiration of the 3-month period  
24          beginning on the date of the enactment of this Act, the

1 Director of the Federal Emergency Management Agency  
2 shall—

3 (1) issue regulations, and revise any materials  
4 made available by such Agency, to clarify the appli-  
5 cability of replacement cost coverage under the na-  
6 tional flood insurance program;

7 (2) revise any regulations, forms, notices, guid-  
8 ance, and publications relating to the full cost of re-  
9 pair or replacement under the replacement cost cov-  
10 erage to more clearly describe such coverage to flood  
11 insurance policyholders and information to be pro-  
12 vided by such policyholders relating to such cov-  
13 erage, and to avoid providing misleading information  
14 to such policyholders; and

15 (3) revise the language in standard flood insur-  
16 ance policies under such program regarding rating  
17 and coverage descriptions in a manner that is con-  
18 sistent with language used widely in other home-  
19 owners and property and casualty insurance policies,  
20 including such language regarding classification of  
21 buildings, basements, crawl spaces, detached ga-  
22 rages, enclosures below elevated buildings, and re-  
23 placement costs.

1 **SEC. 10. FEMA REPORTS ON FINANCIAL STATUS OF INSUR-**  
2 **ANCE PROGRAM.**

3 Section 1320 of the National Flood Insurance Act of  
4 1968 (42 U.S.C. 4027) is amended—

5 (1) in the section heading, by striking “REPORT  
6 TO THE PRESIDENT” and inserting “REPORTS”;

7 (2) in subsection (a), by striking “IN GEN-  
8 ERAL” and inserting “BIENNIAL REPORT TO PRESI-  
9 DENT”; and

10 (3) by adding at the end the following new sub-  
11 section:

12 “(c) SEMIANNUAL REPORTS TO CONGRESS ON FI-  
13 NANCIAL STATUS.—Not later than June 30 and December  
14 31 of each year, the Director shall submit a report to the  
15 Congress regarding the financial status of the national  
16 flood insurance program under this title. Each such report  
17 shall describe the financial status of the National Flood  
18 Insurance Fund and current and projected levels of  
19 claims, premium receipts, expenses, and borrowing under  
20 the program.”.

